

PAPER INDUSTRIES CORPORATION OF THE PHILIPPINES, EVARISTO M. NARVAEZ JR., RICARDO G. SANTIAGO, ROBERTO A. DORMENDO, REYDANDE D. AZUCENA, NICEFORO V. AVILA, FLORENTINO M. MULA, F...

G.R. No. 122092. May 19, 1999

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-122092/>

PANGANIBAN, J.:

To preserve and to uphold the constitutional right against unreasonable searches and seizures, the requisites for the issuance of a search warrant must be followed strictly. Where the judge fails to personally examine the applicant for a search warrant and the latter's witnesses, or where the witnesses testify on matters not of their own personal knowledge, the search warrant must be struck down.

The Case

Before us is a Petition for Certiorari and Prohibition[1] praying for (1) the nullification of Search Warrant No. 799 (95) and the Orders dated March 23, 1993 and August 3, 1995, issued by the Regional Trial Court (RTC), Branch 104, of Quezon City;[2] and (2) the issuance of a temporary restraining order (TRO) or an injunction against State Prosecutor Leo B. Dacera III, ordering him to desist from proceeding with IS No. 95-167.

In its October 23, 1995 Resolution,[3] this Court issued the TRO prayed for and required the respondents to comment on the said Petition. On December 20, 1995, Respondent PNP Traffic Management Command filed its 31-page Opposition[4] to the Petition, together with 90 pages of annexes.[5] On February 22, 1996, the Office of the Solicitor General filed its Comment[6] agreeing with petitioners that the writs prayed for must be granted. After petitioners filed a Reply to the Opposition, the Court gave due course to the Petition and required the parties to submit their respective memoranda.

In view of the contrary opinion of the Office of the Solicitor General, the Court, in its February 5, 1997 Resolution,[7] required State Prosecutor Leo B. Dacera to prepare the memorandum for the public respondents. After issuing a show-cause order to Dacera on June 23, 1997,[8] the Court in its September 24, 1997 Resolution gave him a non-extendible period ending on October 31, 1997 within which to file the required memorandum. In view of Dacera's manifestation that he was only a nominal party and that he had yet to receive the records of the case from the PNP, the Court, in its December 8, 1999 Resolution, ordered the Special Operations Unit (SOU) of the PNP Traffic Management Command to file its memorandum within thirty days from notice; "otherwise, the petition will be deemed submitted for decision." [9] Even after the expiration of the said period, the required pleading was not yet received by this Court.

Hence, this Court considered Respondent SOU's refusal/failure to submit its memorandum as a waiver of its privilege to do so.

The Facts

On January 25, 1995, Police Chief Inspector Napoleon B. Pascua applied for a search warrant before the said RTC of Quezon City, stating:[10]

"1. That the management of Paper Industries Corporation of the Philippines, located at PICOP compound, Barangay Tabon, Bislig, Surigao del Sur, represented by its Sr. Vice President Ricardo G.[.] Santiago, is in possession or ha[s] in [its] control high powered firearms, ammunitions, explosives, which are the subject of the offense, or used or intended to be used in committing the offense, and which xxx are [being kept] and conceal[ed] in the premises herein described.

"2. That a Search Warrant should be issued to enable any agent of the law to take possession and bring to this Honorable Court the following described properties:

'Seventy (70) M16 Armalite rifles cal. 5.56, ten (10) M16 US rifles, two (2) AK-47 rifle[s], two (2) UZI submachinegun[s], two (2) M203 Grenade Launcher[s] cal.40mm, ten (10) cal.45 pistol[s], ten (10) cal.38 revolver[s], two (2) ammunition reloading machine[s], assorted ammunitions for said calibers of firearms and ten (10) handgrenades.'

Attached to the application[11] were the joint Deposition of SPO3 Cicero S. Bacolod and SPO2 Cecilio T. Morito,[12] as well as a summary of the information and the supplementary statements of Mario Enad and Felipe Moreno.

After propounding several questions to Bacolod, Judge Maximiano C. Asuncion issued the contested search warrant,[13] the pertinent portion of which reads:

"It appearing to the satisfaction of the undersigned, after examining under oath, SPO3 Cicero S. Bacolod, that there is probable cause to believe that the management of Paper Industries Corporation of the Philippines, located at PICOP Compound, Barangay Tabon, Bislig, Surigao del Sur, represented by its Sr. Vice President Ricardo G. Santiago, has in its possession or control the following:

Seventy (70) M16 Armalite rifles cal. 5.56
Ten (10) M14 US rifles
Two (2) AK-47 rifle[s]
Two (2) UZI submachinegun[s]
Two (2) M203 Grenade Launcher[s] cal. 40mm.
Ten (10) cal 45 pistol[s]
Ten (10) cal 38 revolver[s]
Two (2) ammunition reloading machine[s]
Assorted ammunitions for said calibers of firearms
Ten (10) handgrenades

in violation of the Provisions of PD 1866 (Illegal Possession of Firearms, Ammunition and Explosives), and the same should be seized and brought before this Court.

"NOW, THEREFORE, you are hereby authorized to make an immediate search daytime between 8:00 a.m. [and] 4:00 p.m. of the aforementioned premises and to seize and bring the articles above-described and make an immediate return there[of]"[14]

On February 4, 1995, the police enforced the search warrant at the PICOP compound and seized the following:[15]

MAKE/TYPE

CALIBER

SERIAL NUMBER

BRAND

01

M16 Rifle

5.56

RP 175636

Elisco

02

M16 Rifle

5.56

RP 175636 (Tampered)

Elisco

03

M16 Rifle

5.56

RP 171702

Elisco

04

M16 Rifle

5.56

Defaced

Elisco

05

M16 Rifle

5.56

RP174253 (Tampered)

Elisco

06

M16 Rifle

5.56

RP173627 (Tampered)

Elisco

07

M16 Rifle

5.56

RP171337

Elisco

08

M16 Rifle

5.56

RP171114

Elisco

09

M16 Rifle

5.56

RP171114 (Tampered)

Elisco

10

M16 Rifle

5.56

RP171167 (Tampered)

Elisco

11

M16 Rifle

5.56

170881 (Tampered)

Elisco

12

M16 Rifle

5.56

RP170897

Elisco

13

M16 Rifle

5.56

RP171509

Elisco

(With pending case-Casaway Case)

14

M16 Rifle

5.56

RP 171754

Elisco

15

M16 Rifle

5.56

RP170881 (Tampered)

Elisco

16

M16 Rifle

5.56

RP174637

Elisco

17

M16 Rifle

5.56

RP171366

Elisco

18

M16 Rifle

5.56

RP174637 (Tampered)

Elisco

19

M16 Rifle

5.56

RP174610

Elisco

20

M16 Rifle

5.56

RP171367 (Tampered)

Elisco

01

M14Rifle

7.62

1499694

Elisco

02

M14Rifle

7.62

889163

Elisco

01

BAR

Cal. 30

865975

Royal

01

Carbine M1

Cal. 30

384181

US Carbin

02

Carbine M1

Cal. 30

998201

US Carbin

01

Garand M1

Cal. 30

1194008

Springfield

02

Garand M1

Cal. 30

3123784

Springfield

01

Shotgun

12 Gauge

H359704

Omega

02

Shotgun

12 Gauge

9211

Homemade

(Paltik)

MAGAZINE ASSEMBLY

QTY.

01 M16 (long)

29 pcs.

02 M16 (short)

48 pcs.

03 Carbine M1

171 pcs.

04 BAR

19 pcs.

LIVE AMMUNITION

QTY.

01 M16 2,023

rounds

03 Carbine M1

276 rounds

04 M-60 Cal. 7.62

1,800 rounds

05 M1 Garand

1,278 rounds

06 Rifle Grenade

11 rounds

07 Hand Grenade

4 pcs.

AMMO DAM POST NO. 24

MAKE/TYPE

CALIBER

SERIAL NUMBER

BRAND

01.

M16 Rifle

5.56

171425 (Tampered)

Gyno Corp.

02.

Machine Pistol

22

651 (Tampered)

Landmann

MAGAZINE ASSEMBLY

QTY.

01. M16 (short)

3 pcs.

02. M16 (long)

1 pc.

03. M14

8 pcs.

04. Clip M1 Garand

3 pcs.

05. Mag Assy. Cal .22

1 pc.

LIVE AMMUNITION

QTY.

01. M16

73 rounds

02. M14

160 rounds

03. M1 Garand Cal .30

30 rounds

04. Rifle Grenade

1 round

MANAGEMENT INTEL/INVEST UNIT

MAKE/TYPE

CALIBER

SERIAL NUMBER

BRAND

01.

M16 Rifle

5.56

RP 171725

Elisco

02.

M16 Rifle

5.56

RP 170799 (Tampered)

Elisco

03.

M16 Rifle

5.56

RP 132320

Elisco

04.

Machine

9 MM

54887

Intratec

Pistol

05.

Three (3)

12 Gauge

Surit-Surit (H)

Shotguns

MAGAZINE ASSEMBLY

QTY.

01. M16 (long)

3 pcs.

02. M16 (short)

4 pcs.

03. Intratec

1 pc.

04. US Carbine (defective)

2 pcs.

LIVE AMMUNITION

QTY.

01. M16

147 rds.

02. Cal. 30

5 rounds

03. 12 gauge Shotgun

7 rounds

04. Carbine

5 rounds

05. Rifle grenade (AVA-0051-84/0056-84)

2 rounds

06. 9MM

30 rounds

NEW ARMORY POST NO. 16

MAKE/TYPE

CALIBER

SERIAL NUMBER

BRAND

01.

Shotgun

12 Gauge

A359910

Arm Scor

02.

Shotgun

12 Gauge

A359716

Arm Scor

03.

Shotgun

12 Gauge

A359706

Armscor

04.

Shotgun

12 Gauge

A359707

Armscor

05.

Shotgun

12 Gauge

1036847

Armscor

06.

Shotgun

12 Gauge

A359702

Armscor

07.

Shotgun

12 Gauge

A359732

Armscor

08.

Shotgun

12 Gauge

A359728

Armscor

09.

Shotgun

12 Gauge

A359708

Armscor

10.

Shotgun

12 Gauge

A359711

Armscor

11.

Shotgun

12 Gauge

A359723

Armscor

12.

Shotgun

12 Gauge

A359713

Armscor

13.

Shotgun

12 Gauge

1031271

Armscor

14.

Shotgun

12 Gauge

A262338

SB

15.

Shotgun

12 Gauge

A261619

SB

16.

Shotgun

12 Gauge

Defaced

Not Indicated

LIVE AMMUNITION

QTY.

01. 12 GAUGE shotgun

306 rds.

02. M16

2,349 rds.

MAGAZINE ASSEMBLY

QTY.

01. Carbine (defective)

76 pcs.

02. Cal. 22 -do-

16 pcs.

03. M16 (long-defective)

2 pcs.

04. M16 (short-defective)

2 pcs.

05. Thompson (defective)

8 pcs.

06. Shotgun 12 Gauge (defective)

17 pcs.

07. BAR (defective)

2 pcs.

Believing that the warrant was invalid and the search unreasonable, the petitioners filed a "Motion to Quash"[16] before the trial court. Subsequently, they also filed a "Supplemental Pleading to the Motion to Quash" and a "Motion to Suppress Evidence." [17]

On March 23, 1995, the RTC issued the first contested Order which denied petitioners' motions.[18] On August 3, 1995, the trial court rendered its second contested Order[19] denying petitioners' Motion for Reconsideration.[20]

Hence, this recourse to this Court on pure questions of law.

Issues

In their Memorandum, petitioners submit the following grounds in support of their cause:[21]

"I

Petitioners respectfully submit that Judge Asuncion has committed grave abuse of discretion or has exceeded his jurisdiction in refusing to quash Search Warrant No. 799(95). Probable cause [has] not xxx been sufficiently established and partaking as it does of the nature of a general warrant.

"II

Petitioners respectfully submit that Judge Asuncion has committed grave abuse of discretion or has exceeded his jurisdiction in refusing to quash Search Warrant No. 799(95) on the ground that it was unlawfully served or implemented.

"III

Petitioners respectfully submit that State Prosecutor Dacera is acting with grave abuse of discretion or exceeding his jurisdiction in continuing with the proceedings in IS No. 95-167 on the basis of illegally seized evidence."

In the main, petitioners question the validity of the search warrant. As a preliminary matter, we shall also discuss respondents' argument that the Petition should be dismissed for raising factual questions.

This Court's Ruling

The petition is meritorious.

Preliminary Issue:

Alleged Factual Questions

In their Opposition, respondents argue that the Petition should be dismissed for raising questions of fact, which are not proper in a petition for certiorari under Rule 65. They maintain that the Petition merely assails the "factual basis for the issuance of the warrant and the regularity of its implementation." [22]

This argument is not convincing. It is settled that "there is a question of fact when the doubt arises as to the truth or the falsity of alleged facts." [23] In the present case, petitioners do not question the truth of the facts as found by the judge; rather, they are assailing the way in which those findings were arrived at, a procedure which they contend was violative of the Constitution and the Rules of Court. We agree that the Petition raises only questions of law, which may be resolved in the present case.

Main Issue:

Validity of the Search Warrant

The fundamental right against unreasonable searches and seizures and the basic conditions for the issuance of a search warrant are laid down in Section 2, Article III of the 1987 Constitution, which reads:

"The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized." (Emphasis supplied)

Consistent with the foregoing constitutional provision, Sections 3 and 4, Rule 126 of the Rules of Court, [24] detail the requisites for the issuance of a valid search warrant as follows:

"SEC. 3. Requisite for issuing search warrant. -- A search warrant shall not issue but upon probable cause in connection with one specific offense to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the things to be seized."

"SEC. 4. Examination of complainant; record. -- The judge must, before issuing the warrant, personally examine in the form of searching questions and answers, in writing and under oath the complainant and any witnesses he may produce on facts personally known to them and attach to the record their sworn statements together with any affidavits submitted."

More simply stated, the requisites of a valid search warrant are: (1) probable cause is present; (2) such presence is determined personally by the judge; (3) the complainant and the witnesses he or she may produce are personally examined by the judge, in writing and under oath or affirmation; (4) the applicant and the witnesses testify on facts personally known to them; and (5) the warrant specifically describes the place to be searched and the things to be seized. [25] In the present case, the search warrant is invalid because (1) the trial court failed to examine personally the complainant and the other deponents; (2) SPO3 Cicero Bacolod, who appeared during the hearing for the issuance of the search warrant, had no personal knowledge that petitioners were not licensed to possess the subject firearms; and (3) the place to be searched was not described with particularity.

No Personal Examination of the Witnesses

In his Order dated March 23, 1995, the trial judge insisted that the search warrant was valid, stating that "before issuing the subject warrant, the court propounded searching questions to the applicant and the witnesses in order to determine whether there was probable cause x x x." [26] (Emphasis supplied.) This was supported by the Opposition to the Motion to Quash, which argued that "it is erroneous for PICOP to allege that the Honorable

Court did not propound searching questions upon applicant P/Chief Inspector Napoleon Pascua and the witnesses he produced." [27] The records, however, proclaim otherwise.

As earlier stated, Chief Inspector Pascua's application for a search warrant was supported by (1) the joint Deposition of SPO3 Cicero S. Bacolod and SPO2 Cecilio T. Morito, (2) a summary of information and (3) supplementary statements of Mario Enad and Felipe Moreno. Except for Pascua and Bacolod, however, none of the aforementioned witnesses and policemen appeared before the trial court. Moreover, the applicant's participation in the hearing for the issuance of the search warrant consisted only of introducing Witness Bacolod: [28]

"COURT:

Where is the witness for this application for search warrant?

P/Chief Insp. NAPOLEON PASCUA:

SPO3 CICERO S. BACOLOD, Your Honor.

COURT:

Swear the witness.

STENOGRAPHER: (To the witness)

Please raise your right hand, sir. Do you swear to tell the truth, the whole truth and nothing but the truth before this Court?

WITNESS:

Yes Ma'am.

STENOGRAPHER:

Please state your name, age, civil status, occupation, address and other personal circumstances.

WITNESS:

SPO3 Cicero S. Bacolod, 42 years old, married, policeman, c/o Camp Crame, Quezon City, SOU, TMC.

x x x x x x x x"

Chief Inspector Pascua was asked nothing else, and he said nothing more. In fact, he failed even to affirm his application. Contrary to his statement, the trial judge failed to propound questions, let alone probing questions, to the applicant and to his witnesses other than Bacolod (whose testimony, as will later be shown, is also improper).

Obviously, His Honor relied mainly on their affidavits. This Court has frowned on this practice in this language:

"Mere affidavits of the complainant and his witnesses are thus not sufficient. The examining Judge has to take depositions in writing of the complainant and the witnesses he may produce and attach them to the record. Such written deposition is necessary in order that the Judge may be able to properly determine the existence or non-existence of the probable cause, to hold liable for perjury the person giving it if it will be found later that his declarations are false.

x x x x x x x x

"It is axiomatic that the examination must be probing and exhaustive, not merely routinary or pro-forma, if the claimed probable cause is to be established. The examining magistrate must not simply rehash the contents of the affidavit but must make his own inquiry on the intent and justification of the application." [29]

Bacolod's Testimony Pertained Not to Facts Personally Known to Him

Bacolod appeared during the hearing and was extensively examined by the judge. But his testimony showed that he did not have personal knowledge that the petitioners, in violation of PD 1866, were not licensed to possess firearms, ammunitions or explosives. In his Deposition, he stated:

"Q How do you know that said properties were subject of the offense?

A

Sir, as a result of our intensified surveillance and case build up for several days, we gathered informations from reliable sources that subject properties [which] are in their possession and control [are] the herein described properties subject of the offense. (Summary of Information dtd Oct `94, SS's of Mario Enad and Felipe Moreno both dtd 30 Nov `94 are hereto attached)."[30]

When questioned by the judge, Bacolod stated merely that he believed that the PICOP security guards had no license to possess the subject firearms. This, however, does not meet the requirement that a witness must testify on his personal knowledge, not belief. He declared:

"Q

This is an application for Search Warrant against Paper Industries Corporation located at PICOP Compound, Barangay Tabon, Bislig, Surigao del Sur. How come that you have knowledge that there are illegal firearms in that place?

A

At Camp Crame, Quezon City, I was dispatched by our Commander to investigate the alleged assassination plot of Congressman Amante.

Q

In the course of your investigation, what happened?

A

We found out that some of the suspects in the alleged assassination plot are employees of PICOP.

Q

Know[ing] that the suspects are employees of PICOP, what did you do?

A

We conducted the surveillance in that area inside the compound of PICOP in Tabon.

Q

What did you find xxx?

A

I found xxx several high-powered firearms.

Q

How were you able to investigate the compound of PICOP?

A

I exerted effort to enter the said compound.

Q

By what means?

A

By pretending to have some official business with the company.

Q

So, in that aspect, you were able to investigate the compound of PICOP?

A

Yes, sir.

Q

What did you f[i]nd xxxt?

A

I found xxx several high-powered firearms being kept in the compound of PICOP.

Q

Where are those located?

A

Sir, there are firearms kept inside the ammo dam.

Q

Inside the compound?

A

Located inside the compound.

Q

Then what?

A

Others, sir, were kept in the security headquarters or office.

Q

You mean to say that this Paper Industries Corporation has its own security guards?

A

Yes, they call it Blue Guards.

Q

You mean to say that their own security guards guarded the PICOP?

A

Yes, sir.

Q

So, it is possible that the firearms used by the security guards are illegally obtained?

A

I believe they have no license to possess high-powered firearms. As far as the verification at FEU, Camp Crame, [is concerned,] they have no license. (Emphasis supplied.)

Q

Have you investigated the Blue Guards Security Agency?

A

I conducted the inquiry.

Q

What did you find out?

A

They are using firearms owned by PICOP.

Q

Using firearms owned by PICOP?

A

Yes, sir.

Q

You mean to say that this Blue Guard Security Agency has no firearms of their own?

A

No high-powered firearms.

Q

By the way, Mr. Witness, what kind of firearms have you seen inside the compound of PICOP?

A

There are M-16 armalite rifles.

Q

What else?

A

AK-47, armalites, M-203 Grenade Launcher, M-14 US rifles, .38 caliber revolvers, .45 caliber pistols, several handgrenades and ammos."[31] (Emphasis supplied)

Moreover, Bacolod failed to affirm that none of the firearms seen inside the PICOP compound was licensed. Bacolod merely declared that the security agency and its guards were not licensed. He also said that some of the firearms were owned by PICOP. Yet, he made no statement before the trial court that PICOP, aside from the security agency, had no license to possess those firearms. Worse, the applicant and his witnesses inexplicably failed to attach to the application a copy of the aforementioned "no license" certification from the Firearms and Explosives Office (FEO) of the PNP, or to present it during the hearing. Such certification could have been easily

obtained, considering that the FEO was located in Camp Crame where the unit of Bacolod was also based. In *People v. Judge Estrada*,^[32] the Court held:

"The facts and circumstances that would show probable cause must be the best evidence that could be obtained under the circumstances. The introduction of such evidence is necessary in cases where the issue is the existence of the negative ingredient of the offense charged - for instance, the absence of a license required by law, as in the present case - and such evidence is within the knowledge and control of the applicant who could easily produce the same. But if the best evidence could not be secured at the time of the application, the applicant must show a justifiable reason therefor during the examination by the judge."

Particularity of the Place to Be Searched

In view of the manifest objective of the constitutional safeguard against unreasonable search, the Constitution and the Rules limit the place to be searched only to those described in the warrant.^[33] Thus, this Court has held that "this constitutional right [i]s the embodiment of a spiritual concept: the belief that to value the privacy of home and person and to afford its constitutional protection against the long reach of government is no less than to value human dignity, and that his privacy must not be disturbed except in case of overriding social need, and then only under stringent procedural safeguards."^[34] Additionally, the requisite of particularity is related to the probable cause requirement in that, at least under some circumstances, the lack of a more specific description will make it apparent that there has not been a sufficient showing to the magistrate that the described items are to be found in a particular place.^[35]

In the present case, the assailed search warrant failed to describe the place with particularity. It simply authorizes a search of "the aforementioned premises," but it did not specify such premises. The warrant identifies only one place, and that is the "Paper Industries Corporation of the Philippines, located at PICOP Compound, Barangay Tabon, Bislig[,] Surigao del Sur." The PICOP compound, however, is made up of "200 offices/buildings, 15 plants, 84 staff houses, 1 airstrip, 3 piers/wharves, 23 warehouses, 6 POL depots/quick service outlets and some 800 miscellaneous structures, all of which are spread out over some one hundred fifty-five hectares."^[36] Obviously, the warrant gives the police officers unbridled and thus illegal authority to search all the structures found inside the PICOP compound.^[37]

In their Opposition, the police state that they complied with the constitutional requirement, because they submitted sketches of the premises to be searched when they applied for the warrant. They add that not one of the PICOP Compound housing units was searched, because they were not among those identified during the hearing.^[38]

These arguments are not convincing. The sketches allegedly submitted by the police were not made integral parts of the search warrant issued by Judge Asuncion. Moreover, the fact that the raiding police team knew which of the buildings or structures in the PICOP Compound housed firearms and ammunitions did not justify the lack of particulars of the place to be searched.^[39] Otherwise, confusion would arise regarding the subject of the warrant - the place indicated in the warrant or the place identified by the police. Such conflict invites uncalled for mischief or abuse of discretion on the part of law enforcers.

Thus, in *People v. Court of Appeals*,^[40] this Court ruled that the police had no authority to search the apartment behind the store, which was the place indicated in the warrant, even if they really intended it to be the subject of their application. Indeed, the place to be searched cannot be changed, enlarged or amplified by the police, viz.:

"x x x. In the instant case, there is no ambiguity at all in the warrant. The ambiguity lies outside the instrument, arising from the absence of a meeting of the minds as to the place to be searched between the applicants for the

warrant and the Judge issuing the same; and what was done was to substitute for the place that the Judge had written down in the warrant, the premises that the executing officers had in their mind. This should not have been done. It [was] neither fair nor licit to allow police officers to search a place different from that stated in the warrant on the claim that the place actually searched - although not that specified in the warrant - [was] exactly what they had in view when they applied for the warrant and had demarcated in their supporting evidence. What is material in determining the validity of a search is the place stated in the warrant itself, not what the applicants had in their thoughts, or had represented in the proofs they submitted to the court issuing the warrant. Indeed, following the officers' theory, in the context of the facts of this case, all four (4) apartment units at the rear of Abigail's Variety Store would have been fair game for a search.

"The place to be searched, as set out in the warrant, cannot be amplified or modified by the officers' own personal knowledge of the premises, or the evidence they adduced in support of their application for the warrant. Such a change is proscribed by the Constitution which requires inter alia the search warrant to particularly describe the place to be searched as well as the persons or things to be seized. It would concede to police officers the power of choosing the place to be searched, even if it not be that delineated in the warrant. It would open wide the door to abuse of the search process, and grant to officers executing a search warrant that discretion which the Constitution has precisely removed from them. The particularization of the description of the place to be searched may properly be done only by the Judge, and only in the warrant itself; it cannot be left to the discretion of the police officers conducting the search." (Emphasis supplied.)

Seized Firearms and Explosives Inadmissible in Evidence

As a result of the seizure of the firearms, effected pursuant to Search Warrant No. 799 (95) issued by the respondent judge, the PNP filed with the Department of Justice a complaint docketed as IS No. 95-167 against herein petitioners for illegal possession of firearms. State Prosecutor Dacera, to whom the Complaint was assigned for preliminary investigation, issued a subpoena requiring petitioners to file their counter-affidavits.

Instead of complying with the subpoena, petitioners asked for the suspension of the preliminary investigation, pending the resolution of their motion to quash the search warrant. They argued, as they do now, that the illegally obtained firearms could not be the basis of the criminal Complaint. Their motion was denied. A subsequent Motion for Reconsideration met the same fate. In the present Petition for Certiorari and Prohibition, petitioners assert that "State Prosecutor Dacera cannot have any tenable basis for continuing with the proceedings in IS No. 95-167." [41]

Because the search warrant was procured in violation of the Constitution and the Rules of Court, all the firearms, explosives and other materials seized were "inadmissible for any purpose in any proceeding." [42] As the Court noted in an earlier case, the exclusion of unlawfully seized evidence was "the only practical means of enforcing the constitutional injunction against unreasonable searches and seizures." [43] Verily, they are the "fruits of the poisonous tree." Without this exclusionary rule, the constitutional right "would be so ephemeral and so neatly severed from its conceptual nexus with the freedom from all brutish means of coercing evidence xxx." [44]

In the present case, the complaint for illegal possession of firearms is based on the firearms and other materials seized pursuant to Search Warrant No. 799 (95). Since these illegally obtained pieces of evidence are inadmissible, the Complaint and the proceedings before State Prosecutor Dacera have no more leg to stand on.

This Court sympathizes with the police effort to stamp out criminality and to maintain peace and order in the country; however, it reminds the law enforcement authorities that they must do so only upon strict observance of the constitutional and statutory rights of our people. Indeed, "there is a right way to do the right thing at the right time for the right reason." [45]

WHEREFORE, the instant petition for certiorari and prohibition is hereby GRANTED and Search Warrant No. 799 (95) accordingly declared NULL and VOID. The temporary restraining order issued by this Court on October 23, 1995 is hereby MADE PERMANENT. No pronouncement as to costs.

SO ORDERED.

Romero (Chairman), Vitug, and Gonzaga-Reyes, JJ., concur.
Purísima, J., did not participate in the deliberations.

[1] Rollo, pp. 3-41.

[2] Presided by Judge Maximiano C. Asuncion (now deceased).

[3] Rollo, p. 160.

[4] Rollo, pp. 90-220.

[5] Rollo, pp. 221-310.

[6] Rollo, pp. 317-334.

[7] Rollo, p. 377.

[8] Rollo, p. 380.

[9] Rollo, p. 404.

[10] Rollo, p. 55.

[11] See separate folder.

[12] This Court notes that the supposed deposition was not signed by Judge Asuncion and that the stamp of receipt was not signed by a responsible court employee.

[13] In their Supplemental Pleading to the Motion to Quash, petitioners questioned the jurisdiction of the RTC of Quezon City to issue the search warrant to be served in Mindanao (Rollo, pp. 64-66). Although petitioners did not repeat this argument before this Court, the trial court's refutation is instructive (Rollo, p. 52). Circular No. 13, as amended by Circular No. 19, series of 1987, provides that a search warrant may be served only within the territorial jurisdiction of the court issuing it. As an exception, however, Supreme Court Administrative Order No. 51-94, dated August 18, 1994, authorized respondent judge and, in his absence, Judges Perlita J. Tria Tirona and Marina Lozada Buzon, all of whom are Quezon City RTC judges, to act on all applications for search warrant filed by the Philippine National Police with respect to the crimes of illegal gambling, violation of the Dangerous Drugs Law, illegal possession of firearms and other "major crimes."

[14] Rollo, p. 45.

[15] Rollo, pp. 47-49.

[16] Rollo, pp. 56-62.

[17] Rollo, pp. 63-68.

[18] Rollo, pp. 51-52.

[19] Rollo, pp. 53-54.

- [20] Rollo, pp. 100-106.
- [21] Petitioners' Memorandum, p. 21; Rollo, p. 344.
- [22] Opposition, p. 11; Rollo, p. 200.
- [23] Reyes v. CA, 258 SCRA 658, July 11, 1996, per Romero, J.
- [24] As amended in 1988.
- [25] Republic v. Sandiganbayan, 255 SCRA 438, 481-482, March 29, 1996.
- [26] Rollo, pp. 51-52.
- [27] Rollo, p. 88.
- [28] TSN, January 25, 1995, p. 2.
- [29] Pendon v. Court of Appeals, 191 SCRA 429, 438, November 16, 1990, per Medialdea, J.; citing Mata v. Bayona, 128 SCRA 388, 391, March 26, 1984; and Roan v. Gonzales, 145 SCRA 687, 694-695, November 25, 1986.
- [30] See page 2 of "Deposition of Witnesses (of Bacolod and Morito)."
- [31] TSN, January 25, 1995, pp. 2-7.
- [32] GR No. 124461, p. 13, September 25, 1998, per Martinez, J.
- [33] See Uy Kheytyin v. Villareal, 42 Phil 886, September 21, 1920.
- [34] Villanueva v. Querubin, 48 SCRA 345, 350, December 27, 1972, per Fernando, CJ; cited in People v. Judge Estrada, GR No. 124461, September 25, 1998.
- [35] LaFave, Search and Seizure: A Treatise on the Fourth Amendment, 2nd ed., Vol. 2, § 4.5, p. 207.
- [36] Petition, p. 11; Rollo, p. 13. (Evidenced by a location plan attached as Annex "C.")
- [37] Rollo, pp. 47-49.
- [38] Opposition, p. 16; Rollo, p. 205.
- [39] Burgos Sr. v. Chief of Staff, 218 Phil. 754 (1984).
- [40] GR No. 126379, June 26, 1998, pp. 7-8, per Narvasa, CJ.
- [41] Petition, p. 6; Rollo, p. 8.
- [42] § 2, Article III of the Constitution.
- [43] Stonehill v. Diokno, 20 SCRA 383, 394, June 19, 1967, per Concepcion, CJ.
- [44] Ibid., p. 395, quoting Mapp v. Ohio, 367 US 643 (1961).
- [45] See Separate Opinion in Santiago v. Comelec, 270 SCRA 106, 185, March 19, 1997 as well as in PIRMA v. Comelec, GR No. 129754, September 23, 1997; footnote no. 107, Panganiban, Battles in the Supreme Court, 1998 ed., p. 50.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.